

RESOLUTION

**RE: Right to Farm Application for Hearing
In the Matter of Dennis and Geri McGill and Tibor Sipos and Cecily Gentles
d/b/a Frog Hollow Farm, LLC
Block 6, Lot 36.01; Township of Tewksbury, County of Hunterdon**

WHEREAS:

On January 16, 2011, a Right to Farm (“RTF”) Application for Hearing was submitted by Dennis and Geri McGill (the “Applicant”) to the Hunterdon County Agriculture Development Board (“CADB”), along with supporting documents and a summary of the complaint against Tibor Sipos and Cecily Gentles, d/b/a Frog Hollow Farm, L.L.C., owners of Block 6, Lot 36.01 in the Township of Tewksbury, County of Hunterdon (the “Farmers”). The Applicant was requesting the CADB to determine whether the use of the property to house roosters and chickens is an agricultural activity entitled to Right to Farm protection and compelling them to remove the chickens and roosters. The relevant procedural history is as follows:

1. On September 14, 2010, the applicant appeared before Tewksbury Township Committee in connection with their complaint.
2. The Tewksbury Township Committee instructed the applicant to bring the matter before the Hunterdon County Agriculture Development Board for determination of jurisdiction and to determine whether the Farmers were entitled to Right to Farm protection. Subsequently, the applicant filed their Right to Farm Application with the CADB.

On January 28, 2011, William Millette, Administrator for the CADB wrote to the farmers, Tibor Sipos and Cecily Gentles, advising them of the Right to Farm Complaint filed against them and requested that they complete the Commercial Farm Certification form and supply supporting documentation. On February 7, 2011, Tibor Sipos and Cecily Gentles submitted a Commercial Farm Certification, for the farm operation located at Block 6, Lot 36.01, in the Township of Tewksbury, County of Hunterdon. The farmers also submitted information pertaining to another property they own, Block 43, Lot 66 in the Township of Washington, County of Morris.

On February 28, 2011, the CADB, through its Administrator, wrote to the SADC and Tewksbury Township and notified them of the application. A commercial farm determination was scheduled for March 10, 2011.

At its March 10, 2011 meeting, the CADB discussed the application and whether the farm was a commercial farm operation in accordance with N.J.A.C. 2:76-2.3., in order to proceed on the Right to Farm application.

Mr. Sipos and Ms. Gentles appeared on behalf of Frog Hollow Farm, L.L.C., and provided the following testimony in support of their contention that the operation is commercial farm:

1. Mr. Sipos and Ms. Gentles, doing business as Frog Hollow Farm, L.L.C., are the owners and operators of a farm operation located at Block 6, Lot 36.01 in the Township of Tewksbury, County of Hunterdon ("Tewksbury Township Parcel"), and a

farm located at Block 43, Lot 66 in the Township of Washington, County of Morris (“Washington Township Parcel”).

2. The Tewksbury Parcel is approximately 4.8 acres. The Tewksbury Township Parcel is not farmland preserved or farmland assessed.

3. The Washington Parcel is approximately 142 acres. The Washington Parcel is a preserved farm and is farmland assessed.

4. The agricultural activity conducted on the Washington Parcel consists of production, harvesting, and processing of vegetables in connection with the Farmer’s salsa business. The farm also produces wheat and corn.

5. The agricultural activity conducted on the Tewksbury Parcel consists of raising approximately 120 chickens, 8 roosters, and 5 goats. The farmer’s business office and residence are located on the property. The agricultural activity began in April, 2010.

6. The farmers contend that the Tewksbury Parcel and Washington Township Parcel are operated as a single farm unit.

Documents that were provided to the Board are as follows:

A-1 Commercial Farm Certification dated February 7, 2011;

A-2 Packet of Information and Documents submitted by Tibor Sipos in support of his contention his operation met the criteria of a commercial Farm.

A-2a Letter from the Morris County Agriculture Development Board dated August 18, 2010 to Tibor Sipos and Cecily Gentles permitting the farmer’s proposals regarding a salsa operation under the terms of the Deed of Easement;

A-2b. A permit for farm plates from State of New Jersey for Frog Hollow Farm, LLC;

A-2c. A Notice of Closure of violation for shed set backs from Tewksbury Township Zoning Department to Tibor Sipos dated December 15, 2010;

A-2d An undated letter from Morris Habitat for Humanity to Cecily Gentles thanking her for her donation of 150 cases of salsa and 5 bushels of green peppers in the year 2010;

A-2e Brochure on Grandma's C's Salsa;

A-2f A testimonial for Grandma C's Salsa from Michael Volpe, MD dated July 15, 2010;

A-2g A copy of a letter from the State of New Jersey dated June 30, 2010 to Cecily and Tibor Sipos approving the use of the "Jersey Fresh" logos;

A-2h Blog from NOFA-NJ on March 9, 2011 with notice of a workshop being held at Frog Hollow Farm;

A-2i Conservation Map dated July 1, 2010 showing soils, together with Delivery ticket and payment information to Growmark FS dated October 19, 2010 for a Bloomsbury Cash Sale;

A-2j A copy of Chapter 5.08 of Tewksbury Township Ordinance entitled "Farming";

A-2k Tewksbury Township Zoning permit dated December 15, 2010 regarding the installation of two goat sheds;

A-2l Application for Farmland Assessment submitted by Frog Hollow Farms, LLC dated July 28, 2010; and,

A-2m A letter from Farm Credit East to Frog Hollow Farm, LLC dated February 23, 2011 renewing the loan commitment scheduled to expire April 1, 2011.

The CADB discussed the matter and considered the submissions and testimony of the Farmers.

NOW, THEREFORE, BE IT RESOLVED THAT THE HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD MAKES THE FOLLOWING FINDINGS OF FACT:

1. The property in question is known as Block 6, Lot 36.01 in the Township of Tewksbury, and consists of approximately 4.8 acres.

2. Frog Hollow Farm, L.L.C. also owns a farm known as Block 43, Lot 66 in the Township of Washington, Morris County, consisting of approximately 142 acres.

3. The agricultural activity conducted on the Washington Township Parcel consists of production, harvesting, and processing of vegetables in connection with the Farmer's salsa business. The farm also produces wheat and corn.

4. The agricultural activity conducted on the Tewksbury Parcel consists of raising approximately 120 chickens, 8 roosters, and 5 goats. The farmer's business office and residence are located on the property. The agricultural activity on the Tewksbury Parcel began in April, 2010.

5. The Farmers contend that the two parcels constitute one farm "unit".

6. N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1 define “Farm Management Unit” as a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products and operated as a single enterprise.

7. The Owners property in Tewksbury Township, Hunterdon County and Washington Township, Morris County do not meet the criteria of one “farm unit” as defined in 4:1C-3, as it does not appear from the evidence presented that the two parcels operate as a single enterprise.

8. N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1 define “Commercial Farm” as (1) a farm management unit of no less than five acres producing agricultural or horticultural products worth \$2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the “Farmland Assessment Act of 1964,” c.48 (C.54:4-23-1 et seq.), or (2) a farm management unit less than five acres, producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the “Farmland Assessment Act of 1964,” P.L.1964, c. 48 (C.54:4-23.1 et seq.).

9. The farm operated by Frog Hollow Farm, L.L.C. in Tewksbury Township does not meet the criteria of a commercial farming operation in accordance with N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1, as it is less than five acres and does not produce agricultural or horticultural products worth more than \$50,000 annually.

10. The Tewksbury Parcel also does not otherwise meet farmland assessment criteria (pursuant to N.J.S.A. 54:4-23.6), which require at least two successive years of devoting the land to agricultural activity.

**NOW, THEREFORE, BE IT RESOLVED BY THE HUNTERDON COUNTY
AGRICULTURE DEVELOPMENT BOARD AS FOLLOWS:**

A. The farm known as Block 6, Lot 36.01 in the Township of Tewksbury, County of Hunterdon, operated by Tibor Sipos and Cecily Gentles, doing business as Frog Hollow Farm, L.L.C., does not meet the criteria of a commercial farming operation in accordance with N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1. Therefore, the CADB does not retain jurisdiction to hear the matter under the Right to Farm Act.

B. The Right-to-Farm complaint hereby is dismissed for lack of jurisdiction.

C. Any person aggrieved by this decision, may appeal to the State Agricultural Development Committee within ten (10) days, pursuant to N.J.A.C. 2:76-2.10.

Dated: April 14, 2011

DAVE BOND, Chairperson